

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION  
(Pre-publication of Notice Statement)

Amend Section 671.5  
Title 14, California Code of Regulations  
Re: Disposition of Wild Animals Possessed in Violation of Regulations

- I. Date of Initial Statement of Reasons: August 25, 2006
- II. Dates and Locations of Scheduled Hearings:
  - (a) Notice Hearing: Date: October 6, 2006  
Location: San Diego
  - (b) Discussion Hearing: Date: November 3, 2006  
Location: Redding
  - (c) Adoption Hearing: Date: December 8, 2006  
Location: Santa Monica
- III. Description of Regulatory Action:
  - (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Portions of the current regulation that were intended to implement Fish and Game Code Section 2189 regarding the disposition of nonnative wildlife have been misunderstood as applying to the illegal possession of native California wildlife. The proposed amendment implements and makes specific the seizure requirement of Fish and Game Code Section 3005.5 relating to the illegal possession of native wildlife, and clarifies what options are available to both the illegal possessor and the Department once illegally possessed wild animals have been found. The amendments clarify that the options available to individuals that illegally possess nonnative wildlife, including the option to ship the animal out of state, are not available in the case of illegally possessed California wildlife. The proposed amendments would clarify that following the seizure of illegally kept native wild animals, the Department has the option of releasing them back to the wild. The proposed amendments also implement provisions of Fish and Game Code sections 2189(b) and 2125 that allow the Department to recover some of its expenses in disposing of seized wildlife. Other proposed amendments throughout the text are intended to enhance the clarity of this section.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, and 2122, Fish and Game Code.

Reference: Sections 1002, 2116-2118, 2118.2, 2118.3, 2118.4, 2119-2155, 2185-2190, 3005.5, 3005.9 and 3005.92, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

None.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

None.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No reasonable alternatives were identified.

- (b) No Change Alternative:

The no change alternative was rejected because the regulation as currently written could be misinterpreted as allowing violators of State laws and regulations to have decision making authority over the disposition of both native and nonnative wild animals that they unlawfully possessed. Lack of clarity and the use of technical terms have also hindered the enforcement of this section.

- (c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs Mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None

## Informative Digest/Policy Statement Overview

Present wording of Fish and Game Code section 671.5 could be interpreted as empowering a person in violation of the law to make decisions relating to disposition of illegally possessed native wild animals, and cause the Department to react to those decisions. The proposed amendment implements and makes specific the seizure requirement of Fish and Game Code section 3005.5 relating to the illegal possession of native wildlife, and clarifies what options are available to both the illegal possessor and the Department once illegally possessed wild animals have been found. The amendments clarify that the options available to individuals that illegally possess nonnative wildlife, including the option to ship the animal out of state, are not available in the case of illegally possessed native California wildlife. The proposed amendments also clarify that following the seizure of illegally kept native wild animals, the Department has the option of releasing them back to the wild. Other proposed amendments incorporate cost recovery provisions that allow the Department to recover some of its expenses in disposing of seized wildlife. Nonsubstantive amendments throughout the text are intended to enhance the clarity of this section.